



STATE OF ARKANSAS
**Department of Finance
and Administration**

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January 31, 2014

VIA U.S. MAIL AND EMAIL, sharong@qualishealth.org

Ms. Sharon Gorman
Vice President, Human Resources
Qualis Health
P.O. Box 33400
Seattle, WA 98133

AND

Ms. Angela Littrell
[REDACTED]
[REDACTED]
[REDACTED]

RE: Advisory Opinion No. 2014-05

Ladies:

This letter is in response to your requests for an advisory opinion, in accordance with Ark. Code Ann. § 19-11-715(b), concerning an employment offer to a state employee. Specifically, you want to know whether the proposed transaction would be prohibited by Ark. Code Ann. § 19-11-709, Restrictions on employment of present and former employees. As both of you have asked for an advisory opinion regarding the same transaction, I am combining both requests into one advisory opinion. This opinion is based upon the following facts that have been presented to me. It should be noted that if one or more of these facts are later shown to be incorrect, that could result in a revised opinion.

- (1) Qualis Health (Qualis) is a Washington-based consulting firm to the public and private health care industry.
- (2) Qualis recently was awarded a professional and consulting services contract with the Department of Human Services, Medical Services Division, to establish the Medicaid "Person Centered Medical Home" (PCMH) practice transformation initiative as part of the Arkansas Payment Improvement Initiative designed to control the growth of the cost of health care.
- (3) Ms. Littrell is an employee with the Medical Services Division (DMS) since January 2010. Ms. Littrell's present title is as the infrastructure development and implementation manager within the DMS's Health Care Innovation area.
- (4) In this position, Ms. Littrell acts as a coordinator of infrastructure activities in the area of health information technology, specifically as it relates to the existing customer service call center and in vendor performance management.

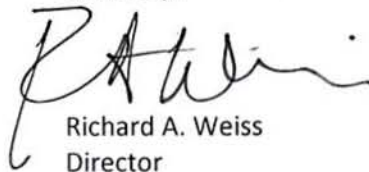
- (5) In order to fulfill its contract with DMS, Qualis needed a project manager in Arkansas to "provide PCMH consulting and programmatic support to primary care practices throughout the state."
- (6) Qualis wishes to hire Ms. Littrell as its project manager, asserting that she was the most qualified applicant for the position.
- (7) Ms. Littrell asserts that the position she's been offered with Qualis is unrelated to her official responsibilities with DMS and that she had no involvement in procurement of the contract between Qualis and DMS.
- (8) The Office of Chief Counsel for DHS (OCC) has offered its opinion that the proposed transaction would not be in violation of the statute.

Act 483 of 1979, codified in part at Ark. Code Ann. § 19-11-701 et seq. ("the Act"), places restrictions on the ability of current or former state employees from accepting employment with contractors for the State. See Ark. Code Ann. § 19-11-709. In particular, Ark. Code Ann. § 19-11-709(b)(2) places a one-year waiting period on former state employees accepting private sector employment for duties that would be within the employee's official responsibilities with the State.¹ Breach of the ethical standards set out in the Act could subject the employee or nonemployee to civil penalties, including but not limited to recovery by the State of the value received or transferred as a result of the breach of ethical standards. See Ark. Code Ann. §§ 19-11-712, -713.

In my opinion, Ms. Littrell's offered position with Qualis Health would not violate the ethical standards of the Act. The informal opinion of the OCC was very helpful in arriving at this position. Ms. Littrell and Qualis Health are on notice, however, that they should both review the Act, and must not take any actions with respect to Qualis Health's contract with DMS that would violate the ethical standards of the Act.

This advisory opinion is issued in accordance with Ark. Code Ann. § 19-11-715(b). Compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Act and Executive Order 98-04.

Sincerely,



Richard A. Weiss
Director

cc: Jane Benton, Office of State Procurement

¹ Ark. Code Ann. § 19-11-709(b)(2) states that "[i]t shall be a breach of ethical standards for any former employee, within one (1) year after cessation of the former employee's official responsibility in connection with any:

- (A) Judicial or other proceeding, application, request for a ruling, or other determination;
- (B) Contract;
- (C) Claim; or
- (D) Charge or controversy,

knowingly to act as a principal or as an agent for anyone other than the state in matters which were within the former employee's official responsibility, where the state is a party or has a direct or substantial interest."